

To substantiate further their position that the specification indeed does enable the production of transgenic cows, applicants submit with this supplemental response the executed declaration of Kenneth R. Bondioli. Dr. Bondioli attests in paragraph 3 that he participated in a transgenic cattle project in 1987, when production of transgenic cattle was achievable via the technique of centrifuging zygotes. Dr. Bondioli also notes that the centrifugation method had been published in 1987 by Wall et al., a publication that is cited in the present specification. *Id.*

In 1988, Dr. Bondioli reported the production of 60 day-old transgenic fetuses, which due to time constraints, were not allowed to be carried to term (see declaration at paragraphs 4 and 5). In his declaration Dr. Bondioli states that, between 1988 and 1991, he utilized established methodology to produce live transgenic cattle with four different transgenes (*id.*, paragraph 6). Thus, Dr. Bondioli concludes in paragraph 7 that:

[T]he scientific knowledge available as of January of 1991 in combination with the disclosure of the above-captioned application would have enabled a researcher to produce a transgenic cow having a transgene under the control of the "long WAP promoter."

Applicants submit that Dr. Bondioli's declaration represents convincing evidence that the present claims relating to transgenic cows comply with the requirements of 35 USC §112, including those of the first paragraph. In this regard, applicants are cognizant of the examiner's concern over what she perceives as relatively few scientific reports that concern transgenic cattle production and that were published by applicants' priority date. As Dr. Bondioli notes, however, "the observation that there are few reports of transgenic cattle by 1991 was strictly a function of economics, and was not due to a lack of technical know-how" (declaration at paragraph 8).

In light of the declaration and remarks above, applicants respectfully request the examiner to withdraw the rejection of

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the claims under the first paragraph of 35 USC §112.
Reconsideration of the claims is respectfully requested

CONCLUSION

Applicants request reconsideration of the claims on their merits and respectfully solicit early notification of an allowance. If Examiner Crouch should have any questions or believes a telephone discussion would expedite prosecution, the examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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Date

Phillip B.C. Jones
Phillip B.C. Jones
Registration. No. 38,195

FOLEY & LARDNER
3000 K Street, N.W., Suite 500
Washington, DC 20007-5109
(202) 672-5300